

THE LAW OFFICE OF

**ELISA HYMAN, P.C.**

October 7, 2022

BY ECF

Honorable Steward D. Aaron, U.S.M.J.

United States District Court - Southern District of New York

500 Pearl St.

New York, New York 10007

**USDC SDNY**

**DOCUMENT**

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**DATE FILED:** 10/8/2022

Re: *Y.W., et al. v. New York City Department of Education, et al.*,  
22-cv-1036 (GHW)(SDA)

Dear Judge Aaron:

I represent the Plaintiffs in the above-referenced case and am submitting this joint letter on behalf of the parties with respect to Your Honor's Order dated October 4, 2022. ECF No. 31.<sup>1</sup> In addition, Plaintiffs are writing because of a scheduling conflict with respect to the October 19, 2022, conference in this matter and are requesting a change of the date.

This is the parties' three prior requests to adjourn the conference and for an extension of time to submit the Case Management Plan ("CMP") and joint letter. The reason for the extension request is set forth below.

The parties had met and conferred to discuss aspects of the joint letter relating to (a) settlement; (b) obtaining the record on appeal ("ROA") and (c) whether and to what extent we would seek sealing and protective orders. Further, on September 20, 2022, Plaintiffs submitted a settlement demand to Defendants, which they are reviewing.

The parties had also previously discussed their discovery dispute in what we thought were sufficient terms to identify the dispute. It was my understanding that we had already crystalized the dispute (*i.e.*, Plaintiffs wanted discovery and Defendants did not agree). Further, based on Plaintiffs' counsel previous practice with the Corporation Counsel's office in a number of similar cases and situations, it was Plaintiffs' understanding that each party would write their section of the joint letter concerning the discovery dispute under separate headings and then would jointly edit the non-disputed items (a)-(c) above. Toward that end, Plaintiffs' counsel provided a copy of Plaintiffs' portion of the joint letter today at 1 p.m. However, when Defendants reviewed the letter, they felt that the information about Plaintiffs' position was more detailed than they had been anticipating and contacted my office for consent to apply for additional time. This conversation, however, prompted a more extensive discussion about the underlying issues in the case, as well as the scope of the discovery dispute.

<sup>1</sup> With respect to the aspects of the letter that are not being jointly submitted, each party have set forth their respective positions under an applicable hearing. Neither party is waiving the right to object to the other parties' representations.

Thus, we jointly determined that if we had more time to collectively review parts of the administrative record together with the administrative decisions and Defendants' Answer, and discuss our respective concerns, it could be productive. Plaintiffs' office had litigated the underlying hearing and appeal and have a detailed familiarity with the record.<sup>2</sup> The parties are cautiously optimistic that we may be able to narrow the scope of discovery dispute or at least further clarify the parties' positions. Further, as discussed below, Plaintiffs' counsel advised that she had a conflict with the October 19, 2022, conference date and we determined that if this date were changed, the additional time might be acceptable to the Court.

Thus, the parties are requesting an additional extension of time to submit the joint letter and CMP in relation to the next date selected by the Court, but in no event earlier than October 14, 2022.

The parties apologize for the fact that this request is being made on the due date, but we did not realize that we had a misunderstanding until this afternoon.

### **Request to Change the Conference Date**

Unfortunately, I have a full-day administrative hearing scheduled by the hearing officer from 9 a.m. to 5 p.m. on October 19, 2022. I had been planning to have my colleague, Erin O'Connor, appear for the initial conference scheduled for October 19, 2022, at 2 p.m. before Your Honor, but given the complexities of the discovery matters that are evolving, my familiarity with the record and the fact that I will be handling motion practice, I determined that I need to appear. Thus, I am requesting that the conference date be changed on a date convenient to the Court. The parties' counsel are both available on the following dates and times: October 27, at 12, 1, or 4, and in the afternoon of November 4, 2022. We hope one of these times will be acceptable to the Court.

### **Conclusion**

If the Court grants the Plaintiffs' request to adjourn the conference date, then the parties request that the due date for the joint letter and CMP be adjourned until October 14, 2022. If the Court denies the extension and or the change of conference date, then the parties are requesting an extension of at least three days, until October 12, 2022, to complete the joint letter and CMP.

Thank you for Your Honor's consideration of these requests.

Respectfully submitted,

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Elisa Hyman, Esq.

cc: Cindy Singh, Assistant Corporation Counsel

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<sup>2</sup> As Defendants' counsel had previously advised the Court, the prior attorney from Corporation Counsel who had been handling this matter and who submitted the Answer left the office in the summer.

Requests GRANTED. The joint letter and CMP shall be filed no later than October 14, 2022. The initial pretrial conference<sup>2</sup> currently scheduled for October 19, 2022, at 2:00 p.m. is rescheduled to October 27, 2022, at 1:00 p.m. At the scheduled time, the parties shall each separately call (888) 278-0296 (or (214)765-0479) and enter access code 6489745. For future reference, the judge's first name ends with a "t." SO ORDERED.

Dated: 10/8/2022

